



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XVIII

RECOGNISED INVESTMENT EXCHANGES AND CLEARING HOUSES

CHAPTER II

COMPETITION SCRUTINY

Role of Director General of Fair Trading

303 Initial report by Director

- (1) The Authority must send to the Treasury and to the Director a copy of any regulatory provisions with which it is provided on an application for recognition under section 287 or 288.
- (2) The Authority must send to the Director such information in its possession as a result of the application for recognition as it considers will assist him in discharging his functions in connection with the application.
- (3) The Director must issue a report as to whether—
 - (a) a regulatory provision of which a copy has been sent to him under subsection (1) has a significantly adverse effect on competition; or
 - (b) a combination of regulatory provisions so copied to him have such an effect.
- (4) If the Director's conclusion is that one or more provisions have a significantly adverse effect on competition, he must state his reasons for that conclusion.
- (5) When the Director issues a report under subsection (3), he must send a copy of it to the Authority, the Competition Commission and the Treasury.

Status: This is the original version (as it was originally enacted).

304 Further reports by Director

- (1) The Director must keep under review the regulatory provisions and practices of recognised bodies.
- (2) If at any time the Director considers that—
 - (a) a regulatory provision or practice has a significantly adverse effect on competition, or
 - (b) regulatory provisions or practices, or a combination of regulating provisions and practices have such an effect,he must make a report.
- (3) If at any time the Director considers that—
 - (a) a regulatory provision or practice does not have a significantly adverse effect on competition, or
 - (b) regulatory provisions or practices, or a combination of regulatory provisions and practices do not have any such effect,he may make a report to that effect.
- (4) A report under subsection (2) must contain details of the adverse effect on competition.
- (5) If the Director makes a report under subsection (2), he must—
 - (a) send a copy of it to the Treasury, to the Competition Commission and to the Authority; and
 - (b) publish it in the way appearing to him to be best calculated to bring it to the attention of the public.
- (6) If the Director makes a report under subsection (3)—
 - (a) he must send a copy of it to the Treasury, to the Competition Commission and to the Authority; and
 - (b) he may publish it.
- (7) Before publishing a report under this section, the Director must, so far as practicable, exclude any matter which relates to the private affairs of a particular individual the publication of which, in the opinion of the Director, would or might seriously and prejudicially affect his interests.
- (8) Before publishing such a report, the Director must exclude any matter which relates to the affairs of a particular body the publication of which, in the opinion of the Director, would or might seriously and prejudicially affect its interests.
- (9) Subsections (7) and (8) do not apply to the copy of a report which the Director is required to send to the Treasury, the Competition Commission and the Authority under subsection (5)(a) or (6)(a).
- (10) For the purposes of the law of defamation, absolute privilege attaches to any report of the Director under this section.

305 Investigations by Director

- (1) For the purpose of investigating any matter with a view to its consideration under section 303 or 304, the Director may exercise the powers conferred on him by this section.

Status: This is the original version (as it was originally enacted).

- (2) The Director may by notice in writing require any person to produce to him or to a person appointed by him for the purpose, at a time and place specified in the notice, any document which—
 - (a) is specified or described in the notice; and
 - (b) is a document in that person’s custody or under his control.
- (3) The Director may by notice in writing—
 - (a) require any person carrying on any business to provide him with such information as may be specified or described in the notice; and
 - (b) specify the time within which, and the manner and form in which, any such information is to be provided.
- (4) A requirement may be imposed under subsection (2) or (3)(a) only in respect of documents or information which relate to any matter relevant to the investigation.
- (5) If a person (“the defaulter”) refuses, or otherwise fails, to comply with a notice under this section, the Director may certify that fact in writing to the court and the court may enquire into the case.
- (6) If, after hearing any witness who may be produced against or on behalf of the defaulter and any statement which may be offered in defence, the court is satisfied that the defaulter did not have a reasonable excuse for refusing or otherwise failing to comply with the notice, the court may deal with the defaulter as if he were in contempt.
- (7) In this section, “the court” means—
 - (a) the High Court; or
 - (b) in Scotland, the Court of Session.